

It was alleged in the libel that the article was misbranded in that the following statements regarding the curative or therapeutic effects of the article, appearing in the labeling, were false and fraudulent: (Bottle) "Earache Liquid for Earache * * * Buzzing in the ear, etc. * * * Repeat every hour until relieved."; (carton) "Earache Outfit sure relief quickly * * * safe reliable and prompt * * * Earache * * * to be used for relieving pain, earaches, buzzing * * * in the Ear, etc. * * * Liquid"; (circular) "In emergencies when you are in pain and are suffering results are wanted you will get quick sure results * * * At night when you have a * * * Splitting Earache * * * That is the time when you want quick relief * * * Earache * * * Earache liquid * * * You will never know what it means to suffer with an awful earache when you use this remedy * * * Makes hearing easier"; (display carton) "Earache Outfit."

On December 21, 1933, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

22004. Misbranding of Oyster-X-Tonic. U. S. v. 67 Bottles and 76 Bottles of Oyster-X-Tonic. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 31561, 31562. Sample nos. 46880-A, 46881-A.)

This case, involved a product labeled to convey the impression that it was prepared largely from oysters and possessed certain tonic properties derived from oysters. Examination showed that the article contained an insignificant proportion, if any, of material derived from oysters; that the ingredients listed on the label were present, if at all, in insufficient amounts to be of any tonic value; and that it contained no medicinal substances capable of producing the curative and therapeutic effects claimed in the labeling. The article was also labeled to convey the misleading impression that it had been examined and approved by the Government.

On November 10, 1933, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 143 bottles of Oyster-X-Tonic at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about October 4 and October 16, 1933, by the Oyster-X Co. from Cleveland, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article by this Department showed that it consisted of tablets containing material derived from nux vomica, calcium, iron and aluminum compounds, traces of copper, iodine, manganese and phosphorus compounds, protein, and starch.

It was alleged in the libels that the article was misbranded in that the following statements regarding its curative and therapeutic effects, appearing in the labeling, were false and fraudulent: (Bottle label) "Oyster-X-Tonic—Directions: Tablets may be chewed or swallowed whole with half glass of water. Take as advised by physician or we suggest 2 tablets before each meal or 3 times during day. Take 2 more tablets at bedtime. If desired, increase bedtime dose to 3 tablets. We advise taking Oyster-X continuously for at least 3 weeks. Still better results obtained when continued 2 or 3 months. Read booklet in package. Oyster-X * * *"; (carton) "Oyster-X Tonic For Men and Women of all Ages Who Desire, in Easy-to-Take Form, the Vital Organic Elements Which Raw, Fresh Oysters Supply the Body in Need of Blood Regeneration. * * * Oyster-X * * * Oyster-X * * * Vital Elements of Raw, Fresh Oysters Valuable in Blood Regeneration. The Vital Organic Elements in Oysters * * * The Oysters Used in Oyster-X Are Selected * * * Oysters, Which Are Rich in These Vital Elements * * * Government Inspected Oysters * * * Oyster-X * * *"; (circular) "Oyster-X Tonic * * * vital elements of raw, fresh Oysters Concentrated * * * Best results are obtained when Oyster-X is taken over a period of time. Do not expect it to make you a new person overnight. You may experience its results very quickly as its vital elements are supplied your body from the very day you start to take Oyster-X. But continue to take it for at least 3 months. Oyster-X * * * Oysters are rich in Vital Elements needed for Blood Regeneration. Now combined in easy-to-take Oyster-X Tonic Tablets. Recent medical research shows that raw oysters are particularly rich in the vital

mineral elements (or mineral salts) necessary for blood regeneration, energy and vigor. Tonics containing iron were once advised for this condition. But the results of Iron alone were often disappointing. It was discovered that a certain proportion of Copper was needed in order to act with the Iron and cause the Iron to help in building up the red blood corpuscles. Further experience showed that the addition of Manganese aided still more in proper blood regeneration. These elements must be in a form which will easily be assimilated by the body—in organic form which we may term food Iron; food Copper; food Manganese. Oysters contain necessary elements. Now medical experiments show that the oyster is peculiarly rich in all three of these vital elements: the food form of Iron, Copper and Manganese, and that it contains, in addition, several other essentials which the body needs for health and vigor. So now raw oysters—or a preparation containing the elements of raw oysters—are advised for sufferers from anemia or those in need of rich, red blood and the vigor and health which follow such blood regeneration. Elements of raw oysters now available at all seasons. One would soon tire of a daily diet of raw oysters. Besides, at certain seasons raw oysters are not obtainable. The raw oyster is Nature's tonic. The raw oyster may be called Nature's own tonic. One writer calls it a 'veritable mine of mineral elements and a bottle of natural Iodine combined.' And Oyster-X Tonic Tablets, containing the vital elements of the raw oyster * * * without any change in efficiency * * * afford a convenient * * * way to take concentrated raw oysters several times a day, and in all seasons. Oyster-X * * * The vital organic elements in oysters * * * The oysters used in Oyster-X * * * rich in these vital materials. * * * government-inspected oysters. * * * Best results, of course, are obtained when Oyster-X is taken over a period of time. Do not expect it to make you a new man or a new woman overnight. You may experience its results very quickly. Naturally, its vital elements are supplied your body the very day you start to take it. But continue to take it for at least 3 months. * * * Weakness often due to lack of Iodine. Thus one may never show a visible sign of the Thyroid swelling known as Goitre and yet may suffer deterioration in this gland and in the entire glandular system and organs, simply because there is a lack of Iodine in the system. The oyster has long been known as an exceedingly rich source of Iodine, in a form easily assimilated by the system. In fact, oysters contain 200 times as much iodine as an equal quantity of steak, eggs or milk. Modern foods are often deficient in these vital necessities. A great physician * * * states that many of our modern troubles certainly are the result of eating foods that do not contain a sufficient supply of vital mineral elements. Another writer on health calls attention to the fact that thousands have died and countless other thousands are in weak or invalid condition because their systems lack a sufficient quantity of these ingredients in which raw oysters are known to be so exceedingly rich. Many victims of poor health and weakness are apt to ascribe their troubles to other causes, yet the true cause may be nothing but a deficiency of these vital elements. Prescriptions of physicians for those who are anemic, for those in need of blood regeneration, for those who lack strength and vigor, repeatedly call for the same ingredients found in raw oysters; Iron, Copper, Manganese, Calcium, Phosphorus and Iodine. If these minerals are in an inorganic form, some systems may not be able to assimilate them. But in raw oysters—or in dried raw oysters—these vital mineral elements are contained in a natural form which the body can assimilate. But it was found that if fresh, raw oysters are dried, powdered and formed into tablets the beneficial effects of the blood-regenerating ingredients are retained. As the bulk of the raw oyster is water, when moisture is removed the vital elements of the oyster can be compressed into very small tablets. Oyster-X Tonic Tablets, for instance, contain in concentrated form the very properties which make raw oysters so beneficial. * * * Other elements in oysters necessary for health and vigor. Besides the Iron, Copper and Manganese advised for blood regeneration in the treatment of anemia, raw oysters contain other organic minerals necessary to true health and vigor. These other elements are also needed by victims of anemia. They are advised also—in addition to the Iron, Copper and Manganese—for others whose health and vigor are impaired from other causes. These other vitally important ingredients found in raw oysters, in the food form which can be assimilated by the system, are Calcium, Phosphorus and Iodine. Calcium and Phosphorus are as necessary for the prolongation of life and good health as Iron, Copper and Manganese are necessary for rich, red, vigorous blood.

Iodine is used to treat and prevent simple Goitre. But even though one may not have goitre, a sufficient supply of Iodine is necessary for the health of the Thyroid Gland. And that means that a sufficient supply of Iodine must be present in the system for other glands to be vigorous too. For the entire glandular system is so closely connected that when the Thyroid Gland is diseased or weakened, the vigor and health of other glands may also be affected. * * * when you have taken Oyster-X for a few weeks, you will gladly favor us by telling your friends how much good it has accomplished. * * * Oyster-X."

Misbranding was alleged for the further reason that the design of an oyster on the carton and the statements, "Oyster-X * * * More Palatable to Many Than Raw, Fresh Oysters The Raw, Fresh Oysters Used in Preparing Oyster-X * * * Concentrated by a Scientific Process * * * Contains Iron, Phosphorus, Calcium, Manganese, Copper, Iodine", and, in the circular, "Contains Iron, Copper, Manganese, Calcium, Phosphorous, Iodine * * *", were false and misleading, since the ingredients named were present in therapeutically insignificant amounts.

Misbranding was alleged for the further reason that the statement, "Government Inspected", appearing on the carton and on the circular, was false and misleading, since it created the impression that the article had been examined and approved by the Government, whereas it had not.

On December 5, 1933, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

22005. Misbranding of Mother Gray's Sweet Powders for Children. U. S. v. 286 Packages of Mother Gray's Sweet Powders for Children. Default decree of condemnation and destruction. (F. & D. no. 31555. Sample no. 40007-A.)

Examination of the drug preparation involved in this case disclosed that it contained no ingredient or combination of ingredients capable of producing certain curative and therapeutic effects claimed in the labeling.

On November 8, 1933, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 286 packages of Mother Gray's Sweet Powders for Children at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about October 7, 1933, by A. S. Olmsted Co., from Le Roy, N.Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article by this Department showed that it consisted essentially of sulphur, sodium bicarbonate, licorice, starch, and sugar.

It was alleged in the libel that the article was misbranded in that the following statements, regarding the curative or therapeutic effects of the article, were false and fraudulent: (Carton) "Act on the stomach, liver * * * in intestinal and stomach disturbances, the powders are most beneficial as they tend to cleanse the digestive system"; (envelop) "These Powders act on the stomach * * * and liver, they * * * tend to regulate the bowels, appetite and digestion are improved so that children frequently gain in flesh"; (leaflet) "Act on the Stomach, liver * * * If children are sick and ailing these powders will afford relief * * * many mothers give them to their children as a corrective medicine, use according to directions when your child is cross and complaining * * * In intestinal and stomach disturbances the powders are most beneficial as they tend to cleanse the digestive system [testimonial] * * * 'My little three year old girl who was very puny * * * Very satisfactory in every case'."

On December 29, 1933, no claimant having appeared for the property, judgment of condemnation was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

22006. Misbranding of I-den-tine Dental Cream. U. S. v. 153 Tubes of I-den-tine Dental Cream. Default decree of condemnation and forfeiture. Product ordered destroyed or delivered to public institutions. (F. & D. no. 31552. Sample no. 43994-A.)

This case involved a shipment of dental cream that was labeled to convey the impression that it contained substantial amounts of iodine and pepsin. Examination showed that the article contained but insignificant amounts of